

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICK ROCK, : No. 17 Civ. 2618 (ALC) (DCF)
: Plaintiff, :
: -against- :
: ENFANTS RICHES DEPRIMES, LLC, :
: BARNEYS NEW YORK, INC. and THE :
: REALREAL, INC., :
: Defendants. :
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DECLARATION OF BARRY I. SLOTNICK IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

I, **BARRY I. SLOTNICK**, declare as follows:

1. I am a partner at the law firm Loeb & Loeb LLP, attorneys for defendants Enfants Riches Deprimes, LLC (“ERD”) and Barneys New York, Inc. (“Barneys”). I am fully familiar with the facts set forth herein and respectfully submit this declaration in support of ERD and Barneys’ motion for summary judgment.
2. Attached hereto as **Exhibit A** is a true and correct copy of the certificate of registration produced by Plaintiff to Barneys and ERD for registration number VA 1-766-990.
3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts and the index from the March 9, 2018 deposition transcript of Plaintiff.
4. Attached hereto as **Exhibit C** is a true and correct copy of the cover and select pages from “Mick Rock Exposed” produced by Plaintiff to Barneys and ERD.

5. Attached hereto as **Exhibit D** is a true and correct copy of the e-file correspondence that Barneys and ERD received from the Copyright Office for registration number VA 1-766-990.

6. Attached hereto as **Exhibit E** is a true and correct copy of the front and back cover of Lou Reed's "Transformer" album, produced by Plaintiff to Barneys and ERD.

7. Attached hereto as **Exhibit F** is a true and correct copy of the front and back cover of Lou Reed's "Blue Mask" album, produced by Plaintiff to Barneys and ERD.

8. Attached hereto as **Exhibit G** is a true and correct copy of Barneys and ERD's October 13, 2017 First Set of Requests for Documents to Plaintiff.

9. Attached hereto as **Exhibit H** is a true and correct copy of Plaintiff's December 21, 2017 Responses and Objections to Barneys and ERD's November 13, 2017 Requests for Documents.

10. Attached hereto as **Exhibit I** is a true and correct copy of the December 28, 2017 deficiency letter from counsel for Barneys and ERD to Plaintiff's counsel.

11. Attached hereto as **Exhibit J** is a true and correct copy of Plaintiff's January 19, 2018 revised Responses and Objections to Barneys and ERD's November 13, 2017 Requests for Documents.

12. On February 2, 2018, Plaintiff made his initial production of documents to ERD and Barneys. This initial production did not contain a Registration certificate or any correspondence with the Copyright Office. The only documents produced relevant to ERD and Barneys' requests for information regarding the Registration and communications with the Copyright Office were a print out from the Copyright Office's online database for the Registration, and select pages from "Mick Rock Exposed" (see Ex. C). Attached hereto as

Exhibit K is a true and correct copy of the online print out as produced by Plaintiff to Barneys and ERD.

13. Attached hereto as **Exhibit L** is a true and correct copy of the February 16, 2018 email from counsel for ERD and Barneys to Plaintiff's counsel requesting Plaintiff's compliance with Magistrate Judge Freeman's January 30, 2018 order.

14. Plaintiff's counsel did not respond to the February 16, 2018 email, nor did he cause any additional documents to be produced.

15. On February 23, 2018, counsel for ERD and Barneys again reached out to Plaintiff's counsel. Attached hereto as **Exhibit M** is a true and correct copy of the February 23, 2018 email.

16. Plaintiff's counsel responded on February 25, 2018. Attached hereto as **Exhibit N** is a true and correct copy of the February 25, 2018 email.

17. The only other production by Plaintiff of documents relevant to ERD and Barneys' requests was made on March 12, 2018, after Plaintiff's deposition, when counsel for ERD and Barneys, for the third time, reached out to Plaintiff to request the relevant documents that Plaintiff's counsel had been ordered by Magistrate Judge Freeman to provide, as well as an update on Plaintiff's counsel's correspondence with Plaintiff's publisher. In response, Plaintiff's counsel produced a copy of the Registration certificate (*see Ex. A*) and represented that he had "not [received] anything from the copyright office as of yet." Attached hereto as **Exhibit O** is a true and correct copy of this March 12, 2018 email correspondence.

18. Plaintiff did not produce any documents that he received from the Copyright Office to ERD and Barneys during discovery.

19. As such, ERD and Barneys, at their own expense, separately requested and obtained from the Copyright Office, all correspondence regarding the Registration. *See Ex. D.*

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: New York, New York
August 8, 2018

/s/ Barry I. Slotnick
Barry I. Slotnick

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